

Town of Lincoln

100 Old River Road, Lincoln RI

Zoning Board of Review

January 9, 2007 Minutes

Present: Raymond Arsenault, Kristen Rao, Arthur Russo, Jr., Jina Karempetsos, David Gobeille, Town Solicitor Mark Krieger

Excused: Gabriella Halmi

Minutes

Chairman Arsenault asked if there any corrections to the Zoning Board Sitting as Planning Board of Appeals Motion made by Member Russo to accept the Minutes as presented. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Motion made by Member Gobeille to accept the December 5, 2006 Minutes with corrections. Motion seconded by Member Russo. Motion carried with a 5-0 vote.

Motion made by Member Rao to accept the December 12, 2006 Minutes with corrections. Motion seconded by Member Karempetsos. Motion carried with a 5-0 vote.

Correspondence

None

Applications:

Omnipoint Communications, Inc., 50 Vision Boulevard, East Providence, RI / St. James Church Corp., 33 Division Street, Manville, RI – Dimensional Variance for front and rear yard setback and height relief for the installation, operation and maintenance of a wireless communications facility on property located at 33 Division Street, Manville, RI. – AP 37, Lot 198 Zoned: RG 7

Represented by: Brian Grossman, Esquire, 100 Cambridge Street, Boston, MA

Applicant received approval for a Use Variance at the December 12, 2006 zoning meeting and was asked to return this evening with a new Dimensional Variance application. Attorney for applicant submitted a new application with correct setbacks clarifying the meets and bounds. Chairman Arsenault read into the record standards that need to be met for a Dimensional Variance. Attorney submitted into the record duplicate prints depicting elevations and setbacks at the site as Exhibit #1.

Table attached to new application laid out relief requested. Existing structures are pre-existing non conforming. Maximum height of tower will be 68 feet and they are seeking relief under Article III (B)

with required height of 35 feet and are asking for height relief of 33 feet. Article III (B) requires lot coverage of 25% - the existing lot coverage is 33% for a difference of 8%. Article III (E) (a) requires side yard setback to outbuilding from Bouvier Avenue of 75 feet – proposed is 25 feet and they are seeking 50 foot side yard setback. Side yard setback to main church building from Church Street is 75 feet – proposed is 10 feet and they are seeking 65 foot side yard setback. Front setback to main church building from Division Street is 75 feet – proposed is 30 feet and they are seeking 45 foot relief. Front setback from rectory to Division Street is 75 feet – proposed is 25 feet and they are seeking 50 foot relief. Side setback from rectory to Bouvier Avenue is 75 feet – proposed is 25 feet and they are seeking 50 foot relief. Article III (E) (1) (b) requires rear setback to existing church building of 87.5 feet – proposed is 60 feet and they are seeking 27.5 feet relief. Rear setback to outbuilding requires 87.5 feet – proposed is 15 feet and they are seeking 72.5 feet relief.

Proposal before the Board is for four antennas located between two louvers on church steeple connected by co axle cables. Equipment room within the church will contain base transmission system cabinets. No generators will be onsite. Equipment will be visited 1-2 times per month for maintenance and will have no traffic impact on the area. Applicants are only asking for dimensional relief as the Use Variance for installation was granted at the November 2006 meeting.

Chairman Arsenault read into the record Planning Board

recommendation:

The proposed dimensional variances are to clear up the pre-existing nonconformance of this parcel of land. This lot and existing buildings were platted and developed before present day zoning regulations. Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval of this application. The Board finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

Motion made by Member Russo to grant Dimensional Variance for:

Article III (B) 33 feet height relief for antennas

Article III (B) 8% lot coverage relief

Article III (E) (1) (a) North setback to the outbuilding from Bouvier Avenue of 50 feet

South setback to main church building from Church Street of 65 feet

East front setback to the main church building from Division Street of 45 feet

East front setback from the rectory to Division Street of 50 feet

North setback from the rectory to Bouvier Avenue of 50 feet

Article III (E) (1) (b) West rear setback to existing church building of 27.5 feet

West rear setback to outbuilding of 72.5 feet

Article II (A) (7.14) Antenna relief of 13 feet

Member Russo further stated:

- **The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- **The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.**
- **The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- **The relief requested is the least relief necessary.**
- **The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property**

Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

H.L. George Development Corp., c/o Richard Ackerman, Esquire, 800 Clinton Street, Woonsocket, RI/First Facility Lincoln, LLC, /o Richard Ackerman, Esquire, 800 Clinton Street, Woonsocket, RI – Request for one year extension of Decisions rendered on January 3, 2006.

AP 41, Lot 44 Zoned: BL 0.5

Represented by: Richard Ackerman, Esquire, 800 Clinton Street, Woonsocket, RI

Chairman Arsenault read into the record correspondence from Attorney Ackerman requesting a one year extension of Zoning Board Decision rendered on January 3, 2006.

This application was continued because of a notice problem. Applicant is proposing the construction of an Alzheimer's facility on Albion Road. Applicant has purchased the land and secured 90% of financing necessary to start construction. Construction is being held up because of problems with development of building plans and specifications which are at 85% completion. Building Department and Fire Department need to review the plans and will not issue a permit until sufficient plans and specifications are available. Mr. George is asking for a one year extension to complete all requirements and feels one year should be sufficient. Corporate and financing areas are all in place.

Member Russo asked if notice issues had been corrected. Attorney Ackerman submitted into the record as Exhibit #1 Affidavit signed by Attorney Ackerman stating notice was mailed on December 22, 2006 to Inland American Hold Co. and LB Lincoln Mall Holdings, LLC. Rachelle Green, attorney for Inland American Retail Management and Lincoln Mall, LLC, is present this evening on another application.

She testified that they received notice and have no objections.

Chairman Arsenault read into the record Planning Board recommendation:

This project represents the commercial development of one lot. Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval of a request for a one year time extension. The applicant has detailed their efforts to date and the time extension appears reasonable.

Motion made by Member Rao to grant a one year extension of Decision granted January 2006 for a Special Use Permit to expire on January 9, 2008. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Motion made by Member Karempetsos to grant a one year extension of Decision granted January 2006 for a Dimensional Variance to expire on January 9, 2008. Motion seconded by Member Russo. Motion carried with a 5-0 vote.

Inland American Retail Management LLC, 2901 Butterfield Road, Oakbrook, IL – Special Use Permit to increase tenant and ownership square footage signage on exterior of property located at 622 George Washington Highway, Lincoln, RI.

AP 41, Lot 7 Zoned: BL 05

**Represented by: Rachelle Green, Esquire, Duffy, Sweeney, Scott, Ltd,
One Turks Head Building, Providence, RI**

This application was continued from the December 2006 agenda for signage. Attorney Green distributed to the Board an amended Special Use Permit. Chairman addressed Attorney Green that at the last meeting the Board had made some recommendations for square footage and asked attorney to discuss them with applicant and return. They currently have 3,828.69 square feet of signage and are requesting additional signage. The Board had discussed a cap and Attorney Green was to take that up with applicant.

Attorney Green informed the Board that applicant wanted to confirm the square footage figures the Town had on record and according to their calculations they currently have 4,140 square feet of existing signage and not 3,831 square feet as listed by the Town.

Witness

Jim Brannigan, Maintenance Supervisor for Inland. He has worked 19 years for Inland

American and calculated the actual square footage of signage at the mall with a tape measure.

The Town shows 330.5 sq. ft. of signage – he measured 475 sq. ft. on the cinema building and the pylon sign down by McDonald. Town

shows Marshall signage at 280 sq. ft. – he measured 192 sq. ft of exterior signage. The Town records reflect 120 sq. ft. of signage on the pylon sign at the lower entrance – he measured 192 sq. ft. The Town records reflect 272 sq. ft. of signage on the pylon sign at the main entrance – he measured 546 sq. ft.

Chairman Arsenault asked Attorney Green if she was representing the mall has 4,140.65 sq.ft of signage and was that enough. She replied that was correct and it was not sufficient signage. Member Rao asked if the Cinemaworld sign included the logo and she replied “yes”.

Attorney Green stated the Special Use Permit for Lincoln Mall lists 3,443.3 sq. ft. plus 392 sq. ft for two pylon signs which is not enough signage and would not cover additional signage. The new owner of the mall wants to work with the Town to make sure everything on the property is permitted. They are requesting a total cap of 5,000 sq. ft. At the last meeting they were discussing a cap of 4,500 sq. ft. but that was based on incorrect numbers. There are three empty stores and applicant wants to make sure there is enough signage for new tenants. Chairman stated that for three additional stores the applicant is asking for an additional 859 sq.ft over and above what exists and the thought that was addressed at the last meeting. Attorney replied that was not asked for at the previous meeting. Chairman felt they had approved 3831.57 sq. ft but now the actual sq. ft. is 300 sq. ft. more. She replied the Town sq. ft. numbers were not

accurate – only 3,400 sq. ft. was permitted.

Attorney Krieger replied the total this Board granted was the 3831.57 because it was 3443 sq.ft. plus 392 for pylons. Russell Hervieux, Zoning Official replied it was actually approved at 3835 sq.ft. which included the pylons and total square footage of the complex combined at the July 2006 meeting.

Attorney Krieger informed Chairman Arsenault that applicant came to the Planning Board this month and asked to make a presentation. The Planning Board issued a recommendation for 4,500 sq.ft. He asked applicant if the figures were not available to her when she appeared before the Planning Board and she replied that was correct and they were working from the Town's figures at that time. Attorney Krieger stated at that point it was 3835 sq.ft. and she was happy with an additional 668 sq. ft. and she replied yes. Chairman said the real difference is 310 sq.ft of signage that applicant says they have versus what the Town thought they had. Chairman said they had talked about 4500 sq.ft. but because they found the additional sq. ft that is the reason they are asking for 5,000 sq.ft Attorney Green stated the new owners will police the tenants to make sure temporary banners are removed after fifteen days as required by our ordinance.

Chairman Arsenault read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and

reviewed the submitted plans and application. The updated application presented the number, size, type, and location of the proposed signs of this application. Based on a review of the existing signage and proposed signage and in light of the retail nature of this parcel, the Planning Board feels that applicant can successfully meet their existing and proposed signage objectives with an overall square footage cap of 4,500 square feet. The square footage cap will permit the Lincoln Mall to have flexibility in allocating signage square footage to their tenants while enabling the Town's zoning official with a definitive total number to judge the facility against. Therefore, the Planning Board recommends Approval of an overall square footage cap of 4,500 square feet for the Lincoln Mall complex.

Chairman stated the Planning Board made their recommendation before they knew of the 310 square footage discrepancy. He wanted to return to his original recommendation of 5,000 sq.ft. thinking it was an appropriate number and is not convinced there may be a discrepancy between applicant and Town's figures. Most of the signs at the mall are visible to the public.

Motion made by Member Karempetsos to approve a cap of 5,000 square feet of signage with the condition that no additional signage shall be installed on the southerly side of the building facing Route 116 and there shall be no freestanding pylon signs at the site. She further stated:

- That the Special Use is specifically authorized under this Ordinance
- That the Special Use meets all the criteria set forth in this Ordinance authorizing such special use
- That the granting of the Special Use will not alter the general character of the surrounding area
- That the granting of the Special Use will not impair the intent or purpose of this Ordinance nor the Lincoln Comprehensive Plan
- The Zoning Board shall consider the aesthetic impact of the signs on the roadside
- The total amount of the sign area on the premises
- The visibility of the use.

Motion seconded by Member Russo. Motion carried with a 4-1 vote with Members Karempetsos, Russo, Arsenault, Gobeille voting “aye” and Member Rao voting “nay.”

**Gray’s Point Investments, LLC, 50 South Main Street, Providence, RI/AT Cross Company, 1 Albion Road, Lincoln, RI – Special Use Permit for signage for multi-tenant corporate office and existing manufacturing for property located at 1 Albion Place, Lincoln, RI.
AP 28, Lot 41 Zoned: ML 0.5**

Represented by: Robert Manning, President/Timothy Moore, Esquire

Mr. Moore appeared on behalf of Gray’s Point. Chairman informed applicant that it was advertised as an application for a special use

permit but it is actually an application for a special use permit for a sign. The advertisement did not list the sign and the Board discussed a possible issue of improper notice with counsel. Mr. Moore replied that the application asked for sign relief under Article 5 (D) and the notice asked for approval for office and manufacturing uses for the site which is allowed. The actual signs are a permitted use and believe the notice is sufficient to advise abutters that there is a application before the Board.

Attorney Krieger stated he was made aware of this by the Zoning Official and spoke to Attorney Moore and discussed the case. The court cases state that to be sufficient the notice must be reasonably calculated to apprise interested parties of the action and character of the relief sought. He felt that the notice actually advertised was for relief being sought that was more intensive than the relief being sought. It was his opinion that if any abutters were concerned they would be present this evening and it was up to the Board to make a decision regarding proper notice. Attorney Krieger pointed out to Mr. Moore that the word “sign” did not appear on the application.

Motion made by Member Rao that sufficient notice was served. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Chairman informed applicant what standards needed to be met for a Special Use Permit.

Applicant wants to install five additional signs at the A.T. Cross location on Route 116 and are asking for 612 sq.ft over and above what exists at the site. The property is being redeveloped and there is an agreement to purchase the property. Corporate offices will stay at that location. AT Cross is freeing up 130,000 sq.ft of space fronting on Route 116 for office space. Signs they propose are standard office monument and parking signs.

Chairman stated the total existing signage as approved by the Board is 475sq.ft. and applicant asking for an additional 612 sq. ft. The Board felt that the 475 sq.ft was sufficient for that building. Mr. Moore replied that the difference was the it would not be a multi tenant building with several active entrances for five to six corporate tenants. It is normal corporate practice to have signage for tenants.

Witness

Tina Bennett, VP of Legal Dept and Human Services

Applicant wants to remove existing signage and replace them with monument signs. An additional monument sign will be install at the main entrance. The Cross sign at the corner of Route 116 and Albion Road will be a small sign identifying the Cross corporate location and retail store. What exists now is a sign over a door identifying the main entrance.

Member Rao asked what has changed between the time they appeared in October and now for them to return for additional

signage. Ms. Bennett replied in October they were in early negotiations with Grays Point and were not sure about the number of retail stores coming into the building. None of the tenants will be retail stores – only renting office space. Member Rao asked Mr. Manning about parking. He replied they have enough parking and will be adding additional parking spaces. They currently meet parking requirements with 810 available parking spaces. Member Rao asked if there would be any additional exterior lighting. Mr. Manning replied signs will be internally lit. Lights will be off from 10:00pm to 6:00am.

Chairman Arsenault read into the record Planning Board recommendation:

Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval of the Special Use Permit for the installation of additional signs. The application requests the addition of eight new signs to define the building use, to provide signage for new proposed tenants, and to identify areas of additional parking. The site plans specifically details the location and type of the new proposed signage. The Planning Board feels that due to the unique nature of the building and more specifically the layout of the facility, that the requested signage will clarify pedestrian and vehicular entrances and traffic flow.

Motion made by Member Karempetsos to approve the Special User Permit granting an additional 580 sq.ft. of signage for a total of 1,056

sq.ft. with a condition that new additional signs be internally illuminated. She further stated:

- That the Special Use is specifically authorized under this Ordinance**
- That the Special Use meets all the criteria set forth in this Ordinance authorizing such special use**
- That the granting of the Special Use will not alter the general character of the surrounding area**
- That the granting of the Special Use will not impair the intent or purpose of this Ordinance nor the Lincoln Comprehensive**

Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Kenneth Demers, 135 Jenckes Hill Road, Lincoln, RI – Use Variance to convert building located at 4 Chapel Lane into two (3) apartments.

AP 3, Lot 179 Zoned:BL 05/RG 7

Kenneth Demers, 135 Jenckes Hill Road, Lincoln, RI – Special Use Permit to convert building located at 10/15 Chapel Lane, Lincoln into six (6) apartments.

AP 3, Lot 89 Zoned:BL 05/RG 7

Kenneth Demers, 135 Jenckes Hill Road, Lincoln, RI – Use Variance to convert building located at 10 Chapel Lane into four (4) two bedroom apartments.

AP 3, Lot 89 Zoned:BL 05/RG 7

Kenneth Demers, 135 Jenckes Hill Road, Lincoln, RI – Dimensional Variance for front yard setback for property located at 10/15 Chapel Lane, Lincoln, RI.

AP 3, Lot 89 Zoned:BL 05/RG 7

Kenneth Demers, 135 Jenckes Hill Road, Lincoln, RI – Application for Relief Under Mapped Street Ordinance for property located at 10/15 Chapel Lane, Lincoln, RI

AP 3, Lot 89 Zoned:BL 05/RG 7

Chairman read into the record standards that need to be met for a Use Variance.

Applicant informed the Board that there is an existing 30'x50' building on the lot. The property is landlocked with no road frontage and the best use for the property would be for apartments. Neighbors are concerned about traffic and if he were to rent it out for commercial use it would generate more traffic than apartments. The town rezoning of the district intends to change this to a residential district. He was informed by the Town Planner to submit applications to the Zoning Board. Applicant has floor plans attached of what the apartment layouts would look like. This Board approved a day care for the site but he has been unable to obtain financing and that is why he is proposing apartments. Outside of the building will not change.

Attorney Krieger informed the Board that this applicant submitted a zone change request before the Town Council a couple months ago and presented what is before the Board this evening together with a surveyors map. Attorney Krieger mentioned to applicant that the information provided did not allow the Council to even consider a zone change and suggested he consult an attorney and get an updated survey because there are no setbacks or delineation of distances listed on the map. Applicant needs to provide the Board with information on what they can base their decision. Applicant stated he did not realize that they needed dimensions from the property lines. Attorney Krieger replied he specifically informed him what was necessary when he appeared before the Town Council. Chairman informed applicant that this is a very complex application and the Board has insufficient information in front of them to render a decision. He informed applicant that the Planning Board recommendation was to deny the application. Chairman informed applicant that he should put together a package to answer the questions the Board has and continue his applications to a future agenda so he can return with a new site plan that depicts the site, shows the location of the buildings, meets and bounds of the site as well as locates the buildings by using numerical factors, show any right of way, any issues with the Department of Environmental Management, and how much relief is being requested. Attorney Krieger stated that due to the complexity of the applications, he may want to consult with someone to assist him in determining what relief

he needs.

Motion made by Member Russo continue the five applications to the April 3, 2007 agenda. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

Motion made by Member Rao to adjourn the meeting. Motion seconded by Member Russo. Motion carried with a 5-0 vote.

**Respectfully submitted,
Ghislaine D. Therien
Recording Secretary**